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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,426

09/25/2003

Mark S. Grendahl

G353.12-0006

5803

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7590

11/15/2004

KINNEY & LANGE, P.A.  
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MINNEAPOLIS, MN 55415-1002

EXAMINER

FULTON, CHRISTOPHER W

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/671,426

Applicant(s)

GRENDAHL, MARK S.

Examiner

Christopher W. Fulton

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Newton.

The device as claimed is disclosed by Newton with a sheet 28 having a longitudinal edge (see marked up front page of Newton for letter designations which have been added to the reference, the marked up page of the reference is attached) (A) disposed perpendicular to a transverse straight edge (B), a longitudinal spacer zone 34 bordered on one side by the longitudinal straightedge and extending the length of the template, a transverse spacer zone 36 bordering the transverse edge of the sheet, a uniform marking zone (C) extending parallel to the longitudinal straightedge and spaced from the longitudinal straightedge by the longitudinal spacer zone further including a plurality of longitudinal apertures 40, a graduated marking zone (D) extending parallel to the transverse straightedge and spaced from the transverse straightedge by the transverse spacer zone and a first set of apertures 40 formed through the sheet and variably spaced from the spacer zone.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-10, 13-16, and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newton in view of Pressey.

The device as claimed is disclosed by Newton as stated in the rejection recited above for claims 1, 12, and 17, but lacks the specific claimed dimensions of the device and the template being made of metal. Pressey teaches using a template for an electrical panel using various standard dimensions of electrical conduits. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the template of Newton with standard electrical dimensions as taught by Pressey to use the device to layout an electrical panel. Pressey also teaches using metal (column 2 lines 36+) in a template to make the template more durable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the template of Newton out of metal as taught by Pressey to make the template more durable.

#### *Response to Arguments*

5. Applicant's arguments filed October 12, 2004 have been fully considered but they are not persuasive. The argument with respect to claim 1 regarding the "width in the transverse direction corresponding to a thickness of a support means" not being shown by the base reference of

Newton is not persuasive because 1) the support is not being claimed and therefore a “corresponding” size cannot be claimed since there is nothing to correspond the size to 2) if the support were being claimed the specific size of the support is not set forth and therefore, broadly speaking, the support can be any size and therefore the width can be any size. The argument that zone 34 of Newton is not a spacer zone is not persuasive since the zone 34 in Newton runs the longitudinal length of the device at a constant width and “spaces” the lower apertures from the upper edge of the device. The argument with respect to claim 1 regarding the “width in the transverse direction corresponding to an outside diameter of a given size of an electrical conduit” not being shown by the base reference of Newton is not persuasive because 1) the electrical conduit is not being claimed and therefore a “corresponding” size cannot be claimed since there is nothing to correspond the size to 2) if the electrical conduit were being claimed the specific size of the support is not set forth and therefore, broadly speaking, the electrical conduit can be any size and therefore the width can be any size. The argument that zone 36 of Newton is not a spacer zone is not persuasive since the zone 36 in Newton runs the transverse length of the device at a constant width and “spaces” the apertures from the left edge of the device. The argument with respect to claim 12 regarding the “distances equal to the radiuses of a multiple of conduit sizes” not being shown by the base reference of Newton is not persuasive because 1) the radiuses of a multiple of conduit sizes is not being claimed and therefore a “corresponding” size cannot be claimed since there is nothing to correspond the size to 2) if the radiuses of a multiple of conduit sizes were being claimed the specific size of the support is not set forth and therefore, broadly speaking, the support can be any size and therefore the width can be any size. The arguments

regarding claim 17 are similar to the arguments of claims 1 and 12 and are similarly not persuasive. The argument regarding the Pressey reference is not persuasive because even though the template of Pressey is placed on a datum line the Pressey reference is a teaching reference and the base reference of Newton has apertures that are spaced from the edge by a set amount (spacer zone) and the datum of Pressey is spaced from the edge by a set amount (spacer zone) which would correspond to the spacer zone of the base reference of Newton. The argument regarding claim 11 is persuasive. The rest of the arguments are similar to the preceding arguments concerning specific sizes and are similarly not persuasive.

*Allowable Subject Matter*

6. Claim 11 is allowed.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horvath and Ganivet both show templates with a plurality of apertures spaced from the edge of the device.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

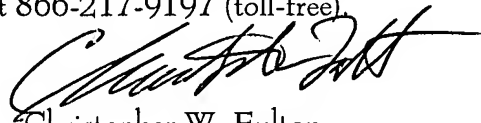
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-Th 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher W. Fulton  
Primary Examiner  
Art Unit 2859

CWF